

**U.S. Army Corps of Engineers - Charleston District
Checklist for 2002 Nationwide Permit Review
Nationwide Permit 31**

**Maintenance of Existing Flood Control Facilities
(10/404)**

SAC #: _____

Applicant Name: _____

Waterway/Location: _____

Project Name: _____

1. Is the discharge of dredged or fill material for activities associated with the maintenance of existing flood control facilities, including debris basins, retention/detention basins, and channels that were previously authorized by the Corps by individual or general permit, by 33 CFR 330.3, or did not require a permit at the time they were constructed, or were constructed by the Corps and transferred to a non-Federal sponsor for operation and maintenance?

☐ Yes* ☐ No

2. Has the District Engineer approved the maintenance baseline¹ and determined the need for mitigation and any regional or activity-specific conditions?

☐ Yes ☐ No

3. Has the flood control facility been abandoned²?

☐ Yes ☐ No

4. Will the activity remove sediment and associated vegetation from the natural water courses except to the extent that these have been included in the maintenance baseline?

☐ Yes ☐ No

5. Is all dredged material being placed in an upland site or in an authorized disposal site in waters of the U.S.?

☐ Yes ☐ No

6. Are proper siltation controls being used?

☐ Yes ☐ No

7. Is the activity proposed in a designated critical resource water or its adjacent wetlands?

☐ Yes³ ☐ No

8. Is the maintenance activity predicated on an emergency situation?

☐ Yes⁴ ☐ No

9. Are all of the applicable NWP General and Regional Conditions satisfied, including mitigation (GC #19), endangered species, and cultural resources, and if any Federally listed species and/or designated critical habitat occurs in the action area, have you made an effect determination and properly documented it in the administrative record?

☐ Yes ☐ No

TO QUALIFY FOR THE NWP, UNLESS OTHERWISE NOTED, EVERY NUMBERED ITEM MUST HAVE A CHECKED BOX.

* - REQUIRES A PRE-CONSTRUCTION NOTIFICATION (PCN) TO THE DISTRICT ENGINEER.

¹ - The maintenance baseline is a description of the physical characteristics (e.g., depth, width, length, location, configuration, or design flood capacity, etc.) of a flood control project within which maintenance activities are normally authorized by NWP 31, subject to any case-specific conditions required by the District Engineer. The District Engineer will approve the maintenance baseline based on the approved or constructed capacity of the flood control facility, whichever is smaller, including any areas where there are no constructed channels, but which are part of the facility. If no evidence of the constructed capacity exists, the approved constructed capacity will be used. The prospective permittee will provide documentation of the physical characteristics of the flood control facility (which will normally consist of as-built or approved drawings) and documentation of the design capacities of the flood control facility. The documentation will also include BMPs to ensure that the impacts to the aquatic environment are minimal, especially in maintenance areas where there are no constructed channels. (The Corps may request maintenance records in areas where there has not been recent maintenance.) Revocation or modification of the final determination of the maintenance baseline can only be done in accordance with 33 CFR 330.5. Except in emergencies as described below in footnote 4, this NWP can not be used until the District Engineer approves the maintenance baseline and determines the need for mitigation and any regional or activity-specific conditions. Once determined, the maintenance baseline will remain valid for any subsequent reissuance of this NWP.

² - A flood control facility will be considered abandoned if it has operated at a significantly reduced capacity without needed maintenance being accomplished in a timely manner.

³ - Discharges of dredged or fill material into waters of the U.S. may be authorized by this NWP in National Wild and Scenic Rivers if the activity complies with NWP General Condition 7. Further, such discharges may be authorized in designated critical habitat for Federally listed threatened or endangered species if the activity complies with NWP General Condition 11, and the U.S. Fish and Wildlife Service or the National Marine Fisheries Service has concurred in a determination of compliance with this condition.

⁴ - In emergency situations, this NWP may be used to authorize maintenance activities in flood control facilities for which no maintenance baseline has been approved. Emergency situations are those which would result in an unacceptable hazard to life, a significant loss of property, or an immediate, unforeseen, and significant economic hardship if action is not taken before a maintenance baseline can be approved. In such situations, the determination of mitigation requirements, if any, may be deferred until the emergency has been resolved. Once the emergency has ended, a maintenance baseline must be established expeditiously, and mitigation, including mitigation for maintenance conducted during the emergency, must be required as appropriate.

